

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THE AMERICAN CIVIL LIBERTIES  
UNION OF NORTH CALIFORNIA, et al.,

Plaintiffs,

v.

FEDERAL BUREAU OF  
INVESTIGATION,

Defendant.

Case No. [10-cv-03759-RS](#)

**ORDER REGARDING CASE  
MANAGEMENT REPORT**

Pursuant to the case management report jointly filed by plaintiffs the American Civil Liberties Union of Northern California, the Asian Law Caucus, and the San Francisco Bay Guardian, together with defendant the Federal Bureau of Investigation (“FBI”), the FBI shall not be afforded a further opportunity to justify invocation of Exemption 7 with regard to the documents currently withheld under that exemption. As noted in the Court’s prior order, the FBI has failed at every juncture to demonstrate Exemption 7’s threshold requirement—that materials withheld and/or redacted under its subsections relate to a particular law enforcement purpose. A supplemental *Vaughn* index would not, therefore, serve to clarify Exemption 7’s applicability. Nor may the FBI now recast the material which it claimed exempt from disclosure under Exemption 7 as appropriately withheld under a different exemption.<sup>1</sup>

Regarding material withheld pursuant to Exemptions 2 and/or 5, the parties shall submit briefing as to the applicability of these exemptions and/or the adequacy of the FBI’s justifications for invoking them. The FBI shall file an opening brief of no more than twenty pages on or before

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<sup>1</sup> This does not, however, apply to material for which the FBI has invoked both Exemption 7 and another exemption.

June 26, 2015. Plaintiffs may file an opposition of no more than twenty-five pages within fourteen days thereafter. The FBI may then file a reply of not more than five pages within seven days after that. The Court shall, thereafter, determine whether to set a hearing on these questions. For the purpose of efficiency, the issues surrounding Exemptions 2 and 5 shall be decided prior to consideration of a process for disclosing any materials deemed improperly withheld or redacted.

**IT IS SO ORDERED.**

Dated: May 15, 2015



RICHARD SEEBORG  
United States District Judge

United States District Court  
Northern District of California